Federal Law and Indian Tribes

Fall 2010

Professors Fletcher and Tweedy

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Required Texts
Getches et al., Cases and Materials on Federal Indian Law, 5th ed. 2005 (West)
2010-2011 Teacher’s Memorandum (TM)

Recommended Texts
Canby, American Indian Law in a Nutshell, 5th ed. 2009 (West)
Pevar, Rights of Indians and Tribes, 3rd ed. 2004 (NYU Press)

Turtle Talk Materials
Other materials listed in the syllabus, including the 2010-2011 Teacher’s Memorandum, are available on the Turtle Talk Blog (http://turtletalk.wordpress.com/matthew-lm-fletcher/)

Assignments
Class #1 (8/23) – Introduction – Johnson v. M’Intosh – AT
Getches 1-37, 44-48, 62-71

Class #2 (8/25) – The Cherokee Cases – AT
Getches 87-88 (Treaty of Hopewell)
Getches 93-127 (Cherokee Nation v. Georgia & Worcester v. Georgia)
Class #3 (8/30) – **The Rise of Federal Power** – AT
  Getches 153-84 (Crow Dog, Kagama, Sandoval, & Lone Wolf)

Class #4 (9/1) – **Treaties** – AT
  Getches 131-39 (U.S. v. Washington & Winans)
  Getches 863-76 (Fishing Vessel)
  Getches 876-89 (Great Lakes Treaty Fishing Litigation)

Class #5 (9/8) – **Treaty Abrogation and Takings** – AT
  Getches 273-95 (Tee-Hit-Ton & Dann Sisters)
  Getches 323-40 (Dion)

Class #6 (9/13) – **Modern Federal Indian Policy Changes** – AT
  Getches 186-99 (Indian Reorganization Act)
  Getches 199-216 (Termination & Menonimee Tribe)
  Getches 216-26 (Self-Determination)
  Getches 660-71 (Indian Child Welfare Act & Mississippi Band)

Class #7 (9/15) – **Indian Land Claims & The Problem of “Settled Expectations”** – AT
  Getches 295-309 (County of Oneida v. Oneida Indian Nation)
  TM 7-17 City of Sherrill v. Oneida Indian Nation
  Cayuga Indian Nation v. Pataki

Class #8 (9/20) – **Federal Trust Responsibility & The Limits of Plenary Power** – MF
  Getches 345-56 (Navajo Nation I & Cobell)
  TM at 19-23 (Navajo Nation II)
  TM at 23-29 (Cobell Update)
  Getches 365-76 (Sioux Nation)

Class #9 (9/22) – **Federal Recognition of Indian Tribes** – MF + Guest Speaker
  Getches 309-315
  Miami Nation of Indians v. DOI
Fletcher, Politics, History, and Semantics: The Federal Recognition of Indian Tribes

**Michigan Indian Day (9/24)** – We usually do something on this day....

**Class #10 (9/27)** – **Indian Tribes & the Constitution – MF**
- Getches 381-405 (Talton v. Mayes, Wheeler & Martinez)
- Swentzell, Testimony of a Santa Clara Woman

**Class #11 (9/29)** – **Sovereign Immunity – MF**
- Getches 405-413
- Respondent’s Brief in Wilson v. GTB EDC
- Confederated Tribes of Grand Ronde v. Strategic Wealth Management
- Jones v. Pokagon Band Gaming Authority

**Class #12 (10/4)** – (continued) – MF
- Foxworthy v. Puyallup
- Bittle v. Bahe
- Colorado ex rel. Suthers v. Cash Advance
- Agua Caliente Band v. Superior Court

**Class #13 (10/6)** – **Tribal Courts and Tribal Law – MF**
- Getches 414-18 (Williams v. Lee)
- Supplemental Tribal Law Materials

**Seventh Annual ILPC Law Conference (10/8—10/9)** – Very Important (esp. Friday) – Counts as Class # 14

**Class #15 (10/11)** – **Implicit Divestiture – AT**
- Getches 510-520 (Oliphant)
- Getches 537-41 (Montana)
- Getches 520-36 (Lara)

**Class #16 (10/13)** – **Intergovernmental Relations – MF**
- Fletcher, Retiring the “Deadliest Enemies” Model of Tribal-State Relations
- Fletcher, Reviving Local Tribal Control in Indian Country

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Class #17 (10/18) – Tribal Civil Adjudicatory Jurisdiction – MF
Class #18 (10/20) – (continued) – MF
  TM 71-85 (Plains Commerce Bank v. Long Family Land and Cattle Co.)
  Nelson v. Pfizer
Class #19 (10/25) – Taxation – MF
  Getches 543-49 (Merrion v. Jicarilla Apache Tribe & Kerr-McGee)
  TM 50-60 (Wagnon v. Prairie Band Potawatomi Nation)
  Fletcher, The Power to Tax, The Power to Destroy, and the Michigan Tribal-State Tax Agreements
Class #20 (10/27) – Tribal Criminal Jurisdiction & P.L. 280 – MF
  Getches 475-92 (Antelope)
  Getches 492-508 (P.L. 280 & Bryan v. Itasca County)
Class #21 (11/1) – Equal Protection & Indian Legislation – AT
  Getches 226-56 (Morton v. Mancari & Rice v. Cayetano)
  Williams v. Babbitt, 115 F.3d 657 (9th Cir. 1997) (majority opinion only).
  Fletcher, The Original Understanding of the Political Status of Indian Tribes
Class #22 (11/3) – Indian Religion – AT
  Getches 738-67 (Lyng & Smith v. Employment Division)
  TM 92-101 (Navajo Nation v. US Forest Service; United States v. Friday)
Class #23 (11/8) – Indian Gaming – MF
  Gaming Supplemental Materials Part I
Class #24 (11/10) – (continued) – MF
  Gaming Supplemental Materials Part II
Class #25 (11/15) – Tribal Economic Development – MF
  Getches 703-11
  San Manuel Indian Bingo & Casino v. NLRB
Fletcher, *In Pursuit of Tribal Economic Development as a Substitute for Reservation Tax Revenue*

TM 36-39 (Singel, Cultural Sovereignty and Transplanted Law)

Class #26 (11/17) – **Federal Trust Acquisitions – MF**

TM 39-52 (*Carcieri v. Salazar*)

MichGoO v. Kempthorne (dissent)

GTB Submission to DOI

**Fall Break (November 21—November 28)**

Class #27 (11/29) – **Indian Law and Supreme Court Adjudication – MF**

Fletcher, *Factbound and Splitless: The Certiorari Process as a Barrier to Justice for Indian Tribes*

Fletcher, *The Supreme Court and the Rule of Law*

Selected Cert Petition/Opposition

Class # 28 – **Review Session (Date, Time, and Location TBD)**